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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**RACHEL HUNTER; REBECCA  
HUNTER; and BONNIE  
HUNTER, Individually and On  
Behalf of All Others Similarly  
Situating,**

Plaintiffs,

v.

**PIONEER CREDIT RECOVERY,  
INC.,**

Defendant.

Case No: **CV 13 - 02090**

**CLASS ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF PURSUANT  
TO THE TELEPHONE CONSUMER  
PROTECTION ACT, 47 U.S.C. § 227,  
ET SEQ.**

**JURY TRIAL DEMANDED**

///

CLASS ACTION COMPLAINT

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RSW(DTBx)

*[Handwritten signature]*

## INTRODUCTION

1. BONNIE HUNTER (“Bonnie Hunter”), REBECCA HUNTER (“Rebecca Hunter”), and RACHEL HUNTER (“Rachel Hunter,” or jointly as “Plaintiffs”) bring this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of PIONEER CREDIT RECOVERY, INC. (“Defendant”) in negligently and/or intentionally contacting Plaintiffs on Plaintiffs’ cellular telephones, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”), thereby invading Plaintiffs’ privacy. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.
2. The TCPA was designed to prevent calls like the ones described within this Complaint, and to protect the privacy of citizens like Plaintiffs. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:
 

[b]anning such *automated* or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting

1 telephone consumers from this nuisance and privacy  
2 invasion.

3 *Id.* at § 12 (emphasis added); *see also Martin v. Leading Edge Recovery*  
4 *Solutions, LLC*, 2012 WL 3292838, at \*4 (N.D. Ill. Aug. 10, 2012) (citing  
5 Congressional findings on TCPA's purpose).

6 4. Congress also specifically found that "the evidence presented to the  
7 Congress indicates that *automated* or prerecorded calls are a nuisance and an  
8 invasion of privacy, regardless of the type of call...." *Id.* at §§ 12-13. *See*  
9 *also, Mims*, 132 S. Ct. at 744 (emphasis added).

10 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA  
11 case regarding calls similar to this one:

12 The Telephone Consumer Protection Act ... is well  
13 known for its provisions limiting junk-fax transmissions.  
14 A less-litigated part of the Act curtails the use of  
15 *automated dialers* and prerecorded messages to cell  
16 phones, whose subscribers often are billed by the minute  
17 as soon as the call is answered—and routing a call to  
18 voicemail counts as answering the call. An automated  
19 call to a landline phone can be an annoyance; an  
20 automated call to a cell phone adds expense to  
21 annoyance.

22 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012)  
23 (emphasis added).

## 24 JURISDICTION AND VENUE

25 6. This Court has federal question jurisdiction because this case arises out of  
26 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*,  
27 132 S. Ct. 740 (2012).

28 7. Venue is proper in the United States District Court for the Central District of  
California pursuant to 18 U.S.C. § 1391(b) because Plaintiffs are residents of  
the County of San Bernardino, State of California and Defendant is subject

1 to personal jurisdiction in the County of San Bernardino, State of California  
2 as Defendant conducts business there.

### 3 PARTIES

4 8. Plaintiffs are, and at all times mentioned herein were, citizens and residents  
5 of the County of San Bernardino, State of California. Plaintiffs are, and at  
6 all times mentioned herein were, "person[s]" as defined by 47 U.S.C. § 153  
7 (39).

8 9. Plaintiffs are informed and believe, and thereon allege, that Defendant is,  
9 and at all times mentioned herein was, a Delaware corporation whose  
10 primary corporate address is in Arcade, New York.

11 10. Defendant is and at all times mentioned herein was, a corporation and is a  
12 "person," as defined by 47 U.S.C. § 153 (39).

13 11. Defendant is one of the leading debt collection agencies in the United States.

### 14 FACTUAL ALLEGATIONS

15 12. Beginning on or about June 24, 2013, Defendant or its agent/s contacted  
16 Rebecca Hunter on her cellular telephone number ending in 8770 via an  
17 automatic telephone dialing system ("ATDS") as defined by 47 U.S.C. §  
18 227(a)(1), and as prohibited by 47 U.S.C. § 227(b)(1)(A).

19 13. This ATDS has the capacity to store or produce telephone numbers to be  
20 called, using a random or sequential number generator.

21 14. Defendant contacted Rebecca Hunter on her cellular telephone at least two  
22 times between June 24, 2013, and June 27, 2013, each time leaving a live  
23 voice message regarding an alleged debt owed by Patrick Hunter.

24 15. Beginning on or about June 26, 2013, Defendant or its agent/s contacted  
25 Bonnie Hunter on her cellular telephone number ending in 7853 via an  
26 ATDS as defined by 47 U.S.C. § 227(a)(1), and as prohibited by 47 U.S.C. §  
27 227(b)(1)(A).

- 1 16. This ATDS has the capacity to store or produce telephone numbers to be  
2 called, using a random or sequential number generator.
- 3 17. Defendant contacted Bonnie Hunter on her cellular telephone at least six  
4 times between June 26, 2013, and July 8, 2013, each time leaving a live  
5 voice message regarding an alleged debt owed by Patrick Hunter.
- 6 18. The live voice message Defendant left on Bonnie Hunter's voicemail on  
7 June 28, 2013 was almost identical to the message Defendant left on  
8 Rebecca Hunter's voicemail on June 24, 2013.
- 9 19. The message Defendant left on Bonnie Hunter's voicemail on July 1, 2013,  
10 July 3, 2013, July 5, 2013, and July 8, 2013 were almost identical to the  
11 voicemail Bonnie Hunter received on June 26, 2013.
- 12 20. Beginning on or about July 12, 2013, Defendant or its agent/s contacted  
13 Rachel Hunter on her cellular telephone number ending in 3456 via an  
14 ATDS as defined by 47 U.S.C. § 227(a)(1), and as prohibited by 47 U.S.C. §  
15 227(b)(1)(A).
- 16 21. This ATDS has the capacity to store or produce telephone numbers to be  
17 called, using a random or sequential number generator.
- 18 22. Defendant contacted Rachel Hunter on her cellular telephone at least two  
19 times between July 12, 2013 and July 30, 2013 leaving a live voice message  
20 each time regarding an alleged debt owed by Patrick Hunter.
- 21 23. The message Defendant left on Rachel Hunter's voicemail on July 29, 2013  
22 was almost identical to the message Defendant left on Rachel Hunter's  
23 voicemail on July 12, 2013.
- 24 24. These calls to Plaintiffs' cellular telephone numbers came from Defendant's  
25 telephone number 855-202-6999.
- 26 25. At no time did Plaintiffs enter into a business relationship with Defendant.
- 27 26. At no time did Plaintiffs provide their cellular telephone numbers to  
28 Defendant through any medium.

27. Upon information and belief, the purpose of these calls from Defendant or its agent/s was to collect an alleged debt owed by someone other than Plaintiffs.

28. The telephone numbers Defendant or its agent/s called were assigned to a cellular telephone service for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

29. These telephone calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A)(i).

30. Plaintiffs did not provide Defendant prior express consent to receive calls to their cellular telephones utilizing an ATDS, pursuant to 47 U.S.C. § 227(b)(1)(A).

31. These telephone calls by Defendant or its agent/s, violated 47 U.S.C. § 227(b)(1).

#### CLASS ACTION ALLEGATIONS

32. Plaintiffs bring this action on behalf of themselves and on behalf of all others similarly situated (the "Class").

33. Plaintiffs represent, and are members of the Class, consisting of:

All persons within the United States who received any telephone call/s from Defendant or its agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system within the four years prior to the filing of the Complaint.

34. Defendant and its employees or agents are excluded from the Class. Plaintiffs do not know the number of members in the Class, but believes the Class members number in the tens of thousands, if not more. This matter should therefore be certified as a Class action to assist in the expeditious litigation of this matter.

1 35. Plaintiffs and members of the Class were harmed by the acts of Defendant in  
2 at least the following ways: Defendant, either directly or through its agents,  
3 illegally contacted Plaintiffs and the Class members via their cellular  
4 telephones by using an ATDS, thereby causing Plaintiffs and the Class  
5 members to incur certain cellular telephone charges or reduce cellular  
6 telephone time for which Plaintiffs and the Class members previously paid,  
7 and invading the privacy of said Plaintiffs and the Class members. Plaintiffs  
8 and the Class members were damaged thereby.

9 36. This suit seeks only damages and injunctive relief for recovery of economic  
10 injury on behalf of the Class, and it expressly is not intended to request any  
11 recovery for personal injury and claims related thereto. Plaintiffs reserve the  
12 right to expand the Class definition to seek recovery on behalf of additional  
13 persons as warranted as facts are learned in further investigation and  
14 discovery.

15 37. The joinder of the Class members is impractical and the disposition of their  
16 claims in the Class action will provide substantial benefits both to the parties  
17 and to the court. The Class can be identified through Defendant's records or  
18 Defendant's agents' records.

19 38. There is a well-defined community of interest in the questions of law and  
20 fact involved affecting the parties to be represented. The questions of law  
21 and fact to the Class predominate over questions which may affect  
22 individual Class members, including the following:

- 23 a) Whether, within the four years prior to the filing of the Complaint,  
24 Defendant or its agent/s placed any call to the Class (other than a  
25 message made for emergency purposes or made with the prior express  
26 consent of the called party) using any automatic dialing system to any  
27 telephone number assigned to a cellular phone service;  
28

b) Whether Plaintiffs and the Class members were damaged thereby, and the extent of damages for such violation; and

c) Whether Defendant and its agent/s should be enjoined from engaging in such conduct in the future.

39. As persons who received at least one autodialed call utilizing an ATDS without Plaintiffs' prior express consent, Plaintiffs are asserting claims that are typical of the Class. Plaintiffs will fairly and adequately represent and protect the interests of the Class in that Plaintiffs have no interests antagonistic to any member of the Class.

40. Plaintiffs and the members of the Class have all suffered irreparable harm as a result of the Defendants' unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendants will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

41. Plaintiffs have retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.

42. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendants to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendants is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

43. Defendants have acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

#### FIRST CAUSE OF ACTION

#### NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT 47 U.S.C. § 227 ET SEQ.

44. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

45. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

46. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiffs and the Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

47. Plaintiffs and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

#### SECOND CAUSE OF ACTION

#### KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

#### 47 U.S.C. § 227 ET SEQ.

48. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

49. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

50. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiffs and the Class are entitled to an award of \$1,500.00 in

1 statutory damages, for each and every violation, pursuant to 47 U.S.C. §  
2 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 51. Plaintiffs and the Class are also entitled to and seek injunctive relief  
4 prohibiting such conduct in the future.

5 **PRAYER FOR RELIEF**

6 Wherefore, Plaintiffs respectfully request the Court grant Plaintiffs and the Class  
7 members the following relief against Defendant:

8 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
9 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 10 • As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),  
11 Plaintiffs seek for themselves and each Class member \$500.00 in statutory  
12 damages, for each and every violation, pursuant to 47 U.S.C. §  
13 227(b)(3)(B).
- 14 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
15 conduct in the future.
- 16 • Any other relief the Court may deem just and proper.

17 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATIONS OF**  
18 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 19 • As a result of Defendant's knowing and/or willful violations of 47 U.S.C.  
20 § 227(b)(1), Plaintiffs seek for themselves and each Class member  
21 \$1,500.00 in statutory damages, for each and every violation, pursuant to  
22 47 U.S.C. § 227(b)(3)(B).
- 23 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
24 conduct in the future.
- 25 • Any other relief the Court may deem just and proper.

26 ///

27 ///

28 ///

**TRIAL BY JURY**

52. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Dated: November 12, 2013

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

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